THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.994 OF 2006

DATED: 30-08-2007

BETWEEN

Md. Ahmed Kirnam Shop,
Sirpur Kagajnagar Village &
Mandal, Adilabad District,
Rep. by its Proprietor,
Md. Ahmed, S/o. Khasim,
Occ: Business, R/o. Sirpur
Kagaj Nagar, Adilabad District
and three others.

...PETITIONERS

AND

The Prohibition and Excise Inspector,
Prohibition and Excise Station Sirpur
Kagaj Nagar, Adilabad District and
others.

...RESPONDENTS

ORDER:

Petitioners submit that they are carrying on the business in Kirana, General goods, Jaggery, Black Jaggery and Alum and they are registered traders. They further submit that though the sale and purchase of Jaggery and Black Jaggery is not prohibited under any of the provisions of the Andhra Pradesh Excise Act, 1968 (for short 'the Act') the respondents are interfering with their day-today business in Black Jaggery and Alum.

2. In fact, it is stated that when the traders of the Jaggery in the entire State were being harassed by the concerned excise officials,
the Commissioner of Prohibition and Excise issued circular order dated 12.04.2002 in Cr.No.4294/DPE/2001/CS giving instructions to all the Excise

officials not to interfere or harass the traders, who purchase the Black Jaggery under the bills and transport the same under the way bills/permits issued by the Agricultural Market Committees.

It is stated that the petitioners are purchasing the black jaggery from the agricultural markets situated in various parts of the State under bills on payment of agricultural market fee and sale price, transporting the same under way bills issued by the Commercial Taxes Authorities. It is stated that in spite of the said circular orders the respondents are unnecessarily interfering with their day-to-day business in the sale and purchase of black jaggery and alum.

3. Counter has been filed stating that black jaggery and alum are not prohibited items under Section 34(e) of the Act. Under Section 34(e) of the Act; whoever, uses, keeps or has in possession of any materials, stills, utensils, implements for the purpose of manufacturing any intoxicant is liable to be penalized. Therefore, it is stated that black jaggery and alum are raw materials for preparation of ID liquor and therefore, the excise authorities are interfering as and when the said material is used for the purpose of manufacturing intoxicants.

But it is stated that the respondents have never interfered with the day-to-day business of the sellers of black jaggery and alum. None of the petitioners were asked to produce the purchase bills or waybills and in fact, no case has been booked against them by the first respondent; thus, the allegations made in the writ petition have been denied. It is further stated that as per the circular order dated 12.04.2002 unless it is reasonably believed that such jaggery is sold for the purpose of manufacturing ID liquor normal course of business of merchants is not at all interfered with.

4. It is not in dispute that the said articles are not prohibited articles, but only if black jaggery and alum are used or found in possession for the purpose of manufacturing any intoxicant, then the said materials are liable to be seized and such persons in possession of the same, are also liable to be

penalized under Section 34(e) of the Act.

However, in view of the categorical denial of the allegations in the counter stating that the day-to-day business of the petitioners was not at all interfered with, the writ petition is disposed of directing the respondents not to interfere with the day-to-day business of black jaggery and alum sellers including the petitioners. However, if the respondents find that black jaggery and alum in possession of the persons is used for the manufacture of intoxicants, it is open for them to take appropriate action in accordance with law. There shall be no order as to costs.

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V. ESWARAIAH, J

August 30, 2007
DSK